

May 8, 2019 Annual Town Meeting

Article PB-4

Section 255-130

**Article PB-4.** To see if Town Meeting will amend Chapter 255 (the Zoning Bylaw) in Section 255-130 by inserting an item E providing that “a condition of any Special Permit is that the approval is conditioned upon the applicant obtaining all other local, State, and/or Federal approvals required for the activity authorized by the Special Permit” as detailed in the Planning Board’s Report to Town Meeting, or take any other action relative thereto.

The changes to be made in the Zoning Bylaw are as follows:

**1. Amend Section 255-130 - “Conditions attached to special permits” of the South Hadley Zoning Bylaw by inserting a new paragraph E would read as follows:**

*E. A condition of any Special Permit is that the approval is conditioned upon the applicant obtaining all other local, State, and/or Federal approvals required for the activity authorized by the Special Permit.*

**OBJECTIVE:** The proposed amendment seeks to clarify that a Special Permit approval is subject to the applicant obtaining all required approvals. Failure to do so would be a violation of the Special Permit and, therefore, the Zoning Bylaw and could result in the Special Permit being revoked.

**SUMMARY:** This article makes changes in Section 255-130. The proposed amendment is a commonly understood principal of land use law – approval by a Special Permit Granting Authority never alleviates anyone’s obligation to comply with other laws and regulations. The Special Permit Rules and Regulations require applicants to list other required permits for the proposed project. However, a number of residents have requested that the Zoning Bylaw be explicit on this point..

**ANNOTATED PROVISIONS:** An annotated version of the existing provisions is provided in Attachment A. Letters and words proposed to be deleted are identified with “strike through markings“ while letters and words proposed to be inserted are identified as “italicized, underlined”.

**Annotated Section 255-130**

**§ 255-130 Conditions attached to special permits.**

- A. Specifications. Upon consideration of the standards and/or criteria listed above, the SPGA may attach such conditions or modifications to a special permit, in addition to those required elsewhere in this bylaw, that it finds necessary to further the purposes of this bylaw. Violation of any of these conditions or modifications shall be a violation of this bylaw. Such conditions or modifications may include, but are not limited to, specifications for: type of construction, increased setbacks and yards, landscaping and screens or buffers, operational controls, sureties, deed restrictions, restrictive covenants, locations of parking and signs; or any other conditions necessary to fulfill the purposes of this bylaw.
- B. Submission of information. In order to secure information upon which to base its determination, the SPGA may require the applicant to furnish, in addition to the information required for an application for a special permit, such further information as it deems necessary to establish its findings.
- C. Performance guarantee. A performance guarantee may be required prior to and as a condition of the special permit granting authority's approval of the special permit.
- D. Special municipal account: the applicant has paid the special municipal account review fee as determined by the Board.
- E. *A condition of any Special Permit is that the approval is conditioned upon the applicant obtaining all other local, State, and/or Federal approvals required for the activity authorized by the Special Permit.***